

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LAWMAN ARMOR CORP.,

Plaintiff,

Case No. 04-CV-72260

vs.

HON. GEORGE CARAM STEEH

DAVID A. SIMON,

Defendant.

ORDER DENYING DAVID SIMON'S MOTION FOR RECONSIDERATION AND TO  
ALTER OR AMEND JUDGMENT

Before the court in this patent infringement lawsuit, closed upon the court's grant of judgment for plaintiff, is defendant David Simon's motion for reconsideration and to alter or amend judgment. Summary judgment was granted for the plaintiff Lawman Armor Corporation on the basis that defendant had abandoned his patent application and, therefore, Lawman Armor was entitled to judgment on its claim seeking a declaration of invalidity.

A court does not grant a motion for reconsideration if it presents only the "same issues ruled upon by the court, either expressly or by reasonable implication;" rather, the movant must demonstrate not only that the court and parties were misled by palpable error, but that correction of the defect will change the disposition of the case. E.D. Mich. LR 7.1(g)(3).

Defendant cites to Futures Technoloby, Ltd. v. Quigg, 684 F.Supp. 430 (E.D. Va 1988), where the district court made a finding that the plaintiff's delay in prosecuting an

application was unavoidable, reversed the decision of the Patent Commissioner, and revived the patent application. However, in that case, the plaintiff inquired of the application's status on "numerous occasions," and was given false assurances that work on the patent application was proceeding. These facts, in part, led the court to conclude that plaintiff had "exercised the diligence observed by prudent and careful men," Id. at 431, and significantly distinguish the Futures Technology case from the one before the court. Defendant's other assertions likewise do not persuade the court that palpable error contributed to the court's determination on summary judgment, or that correction of any such asserted error would change the outcome of the case. Defendant's motion is, accordingly, DENIED.

IT IS SO ORDERED.

S/George Caram Steeh  
GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

Dated: October 5, 2005

#### CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on October 5, 2005, by electronic and/or ordinary mail.

S/Josephine Chaffee  
Secretary/Deputy Clerk